



13.1 Administration

■ Historical Background

Ottoman Period (until 1917): Since the early 16th Century, Ottoman laws and legal system applied. By the mid-19th Century, some laws began to be influenced by legal developments in Europe (e.g., the Land Code of 1857, Civil Code). Few laws dating back to the Ottoman period are still in force.

British Mandate (1918-48): In 1918, the British military administration assumed full responsibility for all laws, legislation and orders. In 1922, when Britain obtained the mandate over Palestine from the League of Nations, British Common Law and judicial structures were introduced in most legal areas. During 1923-48, the British legal system was super-imposed on existing structures; some of the laws from this period are still in force.

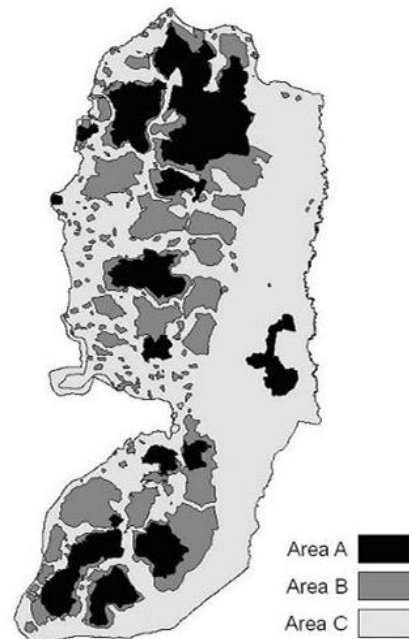
1948-1967: Following the War of 1948, the West Bank (incl. East Jerusalem) became part of Jordan and the GS was under Egyptian rule. In the West Bank, laws that did not contradict the Jordanian Defense Law remained in effect; in 1950, when the West Bank was united with the East Bank some laws applied to both banks and others to only one side. During 1950-1967, the common parliament passed much legislation, most of which is still in force. In Gaza, most Ottoman and British laws remained in force with only few reforms introduced; in 1955, Egypt issued a Basic Law for Gaza, and in 1962, a Constitutional Order.

1967-1993: In the course of the 1967 June War, Israel occupied the Palestinian territories, annexed 70 km² (mainly East Jerusalem area), abolished the West Bank court system, assumed legislative, executive and judicial powers, imposed its military administration, and introduced over 2,000 military orders, amending, changing or repealing virtually every piece of existing legislation. Until the 1988 Jordanian disengagement, the West Bank remained partly under Jordanian administration.

Since Oslo: The Oslo agreements divided the West Bank into three zones: Areas A, B and C:

- In **Area A** (17.2% of the West Bank), the PA has sole jurisdiction and security control, but Israel still retains authority over movement into and out of these areas, and repeatedly makes use of this 'right' during incursions and arrest raids.
- In **Area B** (23.8%), the PA has civil authority and responsibility for public order, while Israel maintains a security presence and 'overriding security responsibility'.
- The remaining 59% of the West Bank, **Area C**, is still under total Israeli occupation.

The PA is still under occupation and has not accomplished the goal of independence and statehood, while Palestinians are still denied their right to self-determination according to international law.



■ **Local Government**

The **Palestinian National Authority (PNA or PA)** is an interim administrative organization that governs parts of the WBGS. It was established in 1994, pursuant to the Oslo Accords between the PLO and the government of Israel, as a five-year transitional body during which final status negotiations between the two parties were to take place.

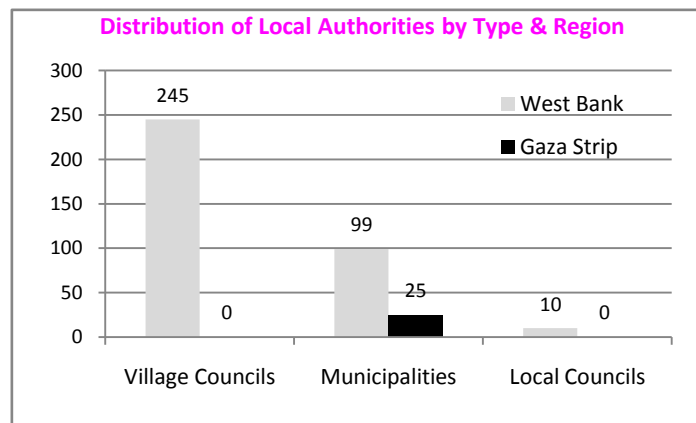
Following the arrival of the PA, the WBGS were divided into **16 Governorates** (11 in the WB: Jenin, Tubas, Tulkarem, Qalqilya, Salfit, Nablus, Ramallah, Jerusalem, Jericho, Bethlehem, Hebron and 5 in the GS: Jabalia, Gaza City, Deir Al-Balah, Khan Younis and Rafah). Each of these is headed by a governor appointed by the President. The governorates are subordinate to the Ministry of Local Government and cooperate with the mayors and heads of village councils in their respective districts.

Municipal and village councils have existed in Palestine since the British Mandate. In June 1967, the Israeli occupation authorities limited their powers and solidified their control over policies and budgets; the Arab Jerusalem Municipality Council was completely dissolved. Since the arrival of the PA, the municipal and village councils took over administrative responsibilities (e.g., water, electricity, waste disposal, schools, planning and building control, roads, maintenance, control of public markets). Prior to the last fully implemented round of local elections (from Dec. 2004-Sept. 2005), municipal elections were only held in Gaza in 1946, in the West Bank in 1976, and in Jerusalem in 1965.



The **second local elections** were held in late 2012 (see below for details).

According to the most recent PCBS Local Community Survey, there are of **557 Palestinian localities** (WB: 524, GS: 33), which are run by 379 **local authorities** (WB: 354, GS: 25). Some of these provide services for more than one locality. In total, there are **124 municipalities** (WB: 99, GS: 25) and in the West Bank another **245 village councils** and **10 local councils**, all of which function in accordance with the regulations of the Ministry of Local Government. (PCBS, *Local Community Survey – Main Findings, 2013* – see also graph on the right).



■ Public Sector

- In Jan. 2006, Hamas won the legislative elections, and replaced Fateh as the leading party, which caused **tensions**, not only between the largely Fateh-dominated senior bureaucratic personnel and the newly appointed Hamas ministers and deputy ministers but also because donors began bypassing the existing financial institutions (mainly the Hamas headed Finance Ministry and channeling funds via the President's Office). The situation worsened after **Hamas** seized control of the **Gaza Strip** in **June 2007** and established there a *de facto* own entity separate from the PA in the West Bank. Hopes that this intra-Palestinian division will come to an end with the 23 April 2014 unity accord between the two factions and the formation of a new interim technocrat government in early June were shattered, for the time being, by the outbreak of the Gaza War in summer 2014.
- **Public Administration and Defense** contributed **21.1%** to the 2nd Quarter 2014 **GDP** (excl. East Jerusalem), making it the largest single contributor. In the WB, the sector's GDP contribution is estimated at 6.6%, in Gaza at 29.2% (PCBS, *Quarterly National Accounts*, Q2-2014).
- As of Feb. 2014, the **PA employed** almost 153,000 civil servants (WB: 89,000, GS: 64,000), with the education, health and security sectors being the largest employers (PA Ministry of Planning and Administrative Development, *National Development Plan, 2014-16*, 2014).
- As of June 2014, 62.7% were working in the **private sector** (WB: 66.4%, GS: 52.8%), 22.4% (WB: 15.6% and GS: 40.7%) in the **public sector**. Highest public sector employment in the **West Bank** was in the Salfit (24.5%) and Tulkarem (21.0%) governorates, lowest in the Jerusalem governorate (9.3%). In **Gaza**, the largest percentage of public sector employees was in the Deir Al-Balah (48%), the lowest in the Khan Yunis (34.8%) governorate (PCBS, *Labor Force Survey Report Series*, Q2-2014).
- At 17% of GDP, the **public sector wage bill** remains high by international standards. Reform efforts of the PA's include limits on transportation allowance, cancellation of leadership allowance to security staff in Gaza (as of May 2014), freeze on payments for employees who reside outside the WBGS for non-work related reasons, and a zero net hiring policy (since 2012) (World Bank, *Palestinian Reform and Development Plan - Trust Fund (PRDP-TF): Quarterly Review, April to June 2014*).
- The increase in the **wage bill** resulted from the growth in the net number of employees which totaled 830 new hires (1,100 employees in the West Bank and 345 in the embassies while 289 employees departed from the public labor force in Gaza and 326 from the national fund and from deputy positions). In the security sector, employment grew by 296 personnel (World Bank, *Palestinian Reform and Development Plan - Trust Fund (PRDP-TF): Quarterly Review, April to June 2014*).
- The **average daily wage** in the public sector was NIS 96.7 (WB: NIS 105.8, GS: NIS 80.3) compared to NIS 71.4 (WB: NIS 82.5, GS: NIS 38.8) in the private sector (PCBS, *Labor Force Survey*, July-Sept. 2014).
- The **PA** pays about US\$500 million a year as **salaries** for about 37,000 **employees in the Gaza Strip**. Since 2007, a large number of these employees have refrained from going to work at the request of the PA (about 18,000 employees in the Ministry of Health and the Ministry of Education have continued to go to work after the split). (MAS, *Final Report Round Table Discussion 1: The PNA's 2013 Budget: How to get through the bottleneck?* Feb. 2013.)
- The **Hamas government** employed about 23,000 personnel (7,500 in the public civil sector and 15,500 in the security sector). The annual wage bill of these is estimated at US\$180 million. (*ibid.*; figures date back to the end of 2009)



13.2 Elections

■ Election framework

Eligible voters and candidates:

Eligible voters are Palestinian WBGS residents incl. Jerusalem, aged 18 years or above on polling day, and registered in the voters' list of one of the 16 district electoral offices. **Eligible candidates** must be aged 30 (PLC) or 35 (President). Presidential candidates must submit a list of 5,000 eligible voters, PLC candidates a list of 500. **Palestinians living overseas are not eligible to vote.**



Election Law and System:

The 1996 Election Law was **amended** on 18 June **2005**, providing for a **mixed electoral system** (majority *and* proportional systems) and increasing the **PLC seats** from 88 to 132, half of which to elect in the 16 electoral districts by a ballot of individual candidates (with six seats reserved for Christians), the other half by a ballot of closed lists of candidates put together by political parties or coalitions (and considering the new women quota). On 2 Sept. 2007, Pres. Abbas changed the electoral law: district voting was eliminated and Palestinians were to vote solely for party lists. All candidates were required to recognize the PLO as the sole legitimate representative of the Palestinian people. Other possible changes to the law are pending Fateh-Hamas talks and their agreed stipulations for the next elections.

■ Past Results

The 2005 Presidential Elections:

Since the establishment of the PA until the death of Pres. Yasser Arafat in Nov. 2004, only one election for President and the PLC took place in 1996. The next such elections were scheduled for 2000, but were delayed due to the outbreak of the Al-Aqsa Intifada. After the death of Arafat, presidential elections took place on 9 Jan. 2005. Seven candidates contested the election, which PLO leader Mahmoud Abbas won with 62.3% of the votes. Independent Mustafa Barghouti came second with 19.8%.

Municipal Elections:

The **first** ever PA **municipal** elections took place in rounds between Dec. **2004** and Dec. **2005**. **Hamas** contested for the first time and scored high. The **second local elections** took place during Oct.-Dec. **2012** in the West Bank; it was criticized for a lack of political competition as candidate lists in 181 locations – and thus 2,124 of the overall 3,487 seats – were elected by acclamation, while only 1,363 seats were elected by an actual vote. Citing harassment of its members and the need for political reconciliation before the holding of elections, Hamas boycotted the polls.

The 2006 PLC Elections:

Elections for a new PLC - scheduled for July 2005 - were postponed after major changes to the Election Law were enacted and eventually took place on **25 Jan. 2006**. The Central Elections Commission had registered **1,268,721 eligible voters** (WB: 775,640, GS: 493,081).

Past PMs	Tenure
Mahmoud Abbas	19 March-7 Oct. 2003
Ahmad Qrei'a	7 Oct. 2003-15 Dec. 2005
Nabil Sha'ath	15 Dec.-24 Dec. 2005
Ahmad Qrei'a	24 Dec. 2005-19 Feb. 2006
Ismail Haniyeh ¹	19 Feb. 2006-June 2007
Salam Fayyad	June 2007-June 2013

Past Presidents	Tenure
Yasser Arafat (died)	Jan.1996-11-Nov. 2004 (<i>de facto</i> since July 1994)
Rawhi Fattuh (acting)	11 Nov. 2004-15 Jan. 2005

Current Main Office Holders:

President: Mahmoud Abbas since 15 Jan. 2005.
Prime Minister: Rami Hamdallah since June 2013



■ Next PLC/Presidential Elections

The **next elections** are currently a matter of debate between Hamas and the President's Office. **Presidential elections** were due in January 2009, when according to the PA's Basic Law Pres. Abbas' 4-year term in office finished. In November 2009, after reconciliation talks with Hamas had failed, Pres. Abbas announced the **indefinite postponement** of the elections, and on 16 December 2009, the PLO Central Council subsequently extended Abbas' term until elections were held. On 22 January 2010 a Presidential Decree on the indefinite postponement of presidential and legislative elections was issued. During the Hamas-Fateh reconciliation talks since 2012 elections were always high on the agenda. The 23 April 2014 intra-Palestinian agreement provided for the formation of a Palestinian interim government within five weeks and the holding of presidential, legislative and PNC elections at least six months thereafter. However, the Gaza War of summer 2014 as well as unresolved issues of public sector reform and unpaid salaries have already generated a severe governance crisis.

13.3 Rule of Law

■ Legal Background/Legislation

- Palestine does not have a formal constitution; after decades of neglect under occupation, its legal framework is based on a confusing mixture of various historical **legal systems** (Ottoman, British Mandate, Egyptian, Jordanian, and Israeli), as well as **Shari'a law** and a **Basic Law**, which came into force on 7 July 2002 (amended in 2003 and 2005) that functions as a temporary constitution until the establishment of an independent State. (for the various drafts of the Palestinian Constitution, see <http://www.palestinianbasiclaw.org/>).
- Lacking the quorum to convene, the **PLC** has been deficient since 2007, adversely impacting its **law-making** role. Main reasons are Israel's imprisonment of PLC members, the Fateh-Hamas conflict, and overdue elections. Israeli forces regularly arrest PLC members, mostly belonging to Hamas' Change and Reform Party. As of Oct. 2014, there were 28 PLC members detained.

■ Judiciary

- The **PA court system** consists of the Supreme Court, Appeal Courts, First Instance Courts and Magistrate Courts. Specialized courts were established (such as the Anti-Corruption Court in 2010 and the Customs Court in 2011) as were specialized chambers within regular courts (e.g. separate criminal and civil chambers, labor cases chambers) (World Bank, *Sustaining Achievements in Palestinian Institution-Building and Economic Growth*, Sept. 2011).
- In the West Bank, there are 23 **Shari'a courts** with only 42 judges (three of them female), 7 prosecutors and 29 clerks. (PCBS, *A Review of Palestinian Justice and Security Sector Data*, August 2013).
- The West Bank has 23 **regular courts** (10 Conciliation Courts, 10 Courts of First Instance, 2 Courts of Appeal and a High Court) with a total of 178 **judges** (27 of them female) and 879 clerks, which is low when compared to the region: the West Bank has 7.6 judges per 100,000 inhabitants, while Jordan has 12.7, Egypt 16.0, and Tunisia 15.4. Of the 110,662 new **cases** filed at West Bank regular courts in 2011, 49% were traffic misdemeanors, 30.2% criminal law trial cases, 14% civil law trial cases, and the remainder were various appeal cases (*Ibid.*).
- In Gaza, there are 10 **courts** in total (5 Conciliation Courts, 3 Courts of First Instance, a Court of Appeal and a High Court), as well as 42 **judges** (2 of them, female) and 65 **prosecutors**. (*Ibid.*).
- The **Enforcement Department** of the **High Judicial Council** has only nine execution officers to enforce all decisions by regular and Shari'a courts. Consequently, only one fifth of total judgments were enforced in 2011, with a backlog soaring to 64,897 (*Ibid.*).



- There are 12 public **prosecution offices** in the West Bank with 109 **prosecutors** (17 of them female) and 87 support staff. The resulting **ratio** of 4.7 prosecutors per 100,000 inhabitants is lower than of other countries in the region: Jordan had 13.2 prosecutors per 100,000 inhabitants, Egypt 16.1, and Tunisia 17.1. In 2011, the average annual **caseload** was 400 cases in 2011 (*Ibid.*).
- The West Bank has 7 **detention/prison facilities**, each with a section for men and one for women. While **imprisonment rates** are with 41 persons per 100,000 inhabitants low (placing the PA worldwide in 208th place), 'non-convicted' detainees make up nearly half of them. Equally worrying are cases of prolonged pre-trial detention (*Ibid.*).
- As of Oct. 2014, 3,254 Palestinian **lawyers** were registered with the Bar Association in the West Bank and 934 in the Gaza Strip (Palestinian Bar Association.).
- In 2012, there were 18,330 **reported criminal offenses** in the West Bank (i.e., a **rate** of 8.07 per 1,000 population), including: 8,860 assaults, 3,541 harming/immoral acts, 2,418 thefts, 731 crimes against public order, 671 forgery/fraud, 582 drug crimes, 464 threats/assaults against government employees, 157 (attempted) murder, 119 (attempted) rape, 112 (attempted) kidnappings, 116 unlicensed weapon possession, 94 arsons, and 14 cases of possessing/trading with expired food or medicine (PCBS, *Crime and Victimization Statistics*, 2013).
- In total, there were 7,750 **persons in custody** throughout 2012 (627 as of Dec. 2012) and 7,060 **convicted offenders in prison**. The number of accused **juvenile offenders** was 1,716 (*Ibid.*).
- In 2012, there were a total of 213,546 submitted and 184,639 decided **court matters** in the West Bank; the vast majority of these matters were dealt with by magistrate courts. (*Ibid.*).

■ Human Rights Violations in the PA

Elements within the PA have been responsible for **violating the rights of civilians**, sometimes in response to strong pressure by Israel and the US to clamp down on opponents of the peace process. The insufficient conduct of legal proceedings, arbitrary raids and arrests, violation of the right to freedom of expression, as well as the torture of detainees have become regular complaints.

- According to B'Tselem, 684 **Palestinians** were **killed by Palestinians** (WB: 134, GS: 550) between 28 Sept. 2000 and August 2014, 134 of them on suspicion of **collaborating** with Israel (WB: 109, GS: 25).
- B'Tselem data shows that since 1995 and as of Sept. 2014, PA courts have issued 71 **death sentences**, of which 13 were executed by the PA, the last in 2005. In Gaza under Hamas-control, 55 death penalties were issued since 2007 (four of them in 2014), of which 18 were executed (2 in 2014).
- Other causes of concern are ongoing incidents on the part of the **PA security forces**, such as arbitrary detentions and political arrests that do not comply with legal procedures and deny citizens' personal freedoms, delayed execution of court judgments, as well as torture and abuse. The Independent Commission for Human Rights (ICHR) reports 497 cases of **allegations of torture** (WB: 150, GS: 347) received in 2013 (up from 294 in 2012), 67 cases of allegations of **inhumane and degrading treatment** (2012: 58), and 158 allegations of physical and psychological **assaults by security agencies** (2012: 156) (ICHR, *19th Annual Report 2013, 2014*).
- The ICHR further reports 4 **deaths in detention** (2 in Gaza, 2 in the West Bank), and 3 **executions** (death penalties, all in Gaza) in 2013. In addition, 17 death penalties were issued throughout 2013, 16 of them in Gaza (*Ibid.*).
- In addition, there was a significant increase in cases of **arbitrary detention**: 826 (WB: 425, GS: 401) in 2013 (2012: 176) and of disrespect of courts' rulings by authorities: 123 (2012: 102) (*Ibid.*).
- In 2013, the number of women slain by relatives in the West Bank and Gaza ("**honor killings**") had reached 26 (compared to 13 in 2012 and 5 in 2011).

13.4 Negotiations

■ Timeline

- The **Declaration of Principles** on Interim Self-Government Arrangements (DoP) of 13 **Sept. 1993** stipulated that negotiations would be conducted in two phases: a first ‘transitional’ or ‘interim’ period during which Israel would gradually withdraw from Palestinian areas in the WBGS in return for Palestinian guarantees, particularly on security-related issues, and a second phase to conclude a ‘final status’ agreement’ by 4 May 1999. However, the date passed with no deal signed and, instead, a series of new agreements was drafted and signed, incl. the Agreement on the Gaza Strip and the Jericho Area (Oslo I, 4 **May 1994**), the Palestinian-Israeli Interim Agreement on the West Bank and the Gaza Strip (Oslo II, 28 **Sept. 1995**), the Protocol Concerning the Redeployment in Hebron (**Jan. 1997**), the Wye River Memorandum (Oct. 1998) and the Sharm El-Sheikh Memorandum (**Oct. 1998**).
- In **July 2000**, the US called for a three-way summit to achieve an agreement on final status issues. However, the **Camp David** Summit ended on 26 July 2000, after 15 days of talks, without success. To overcome the post-Camp David deadlock, a US **‘Bridging Proposal’** in Nov. 2000 proposed Israeli withdrawal from 90% of the West Bank and several solutions for the settlement, refugee, and Jerusalem issues. Based on these ideas, talks were conducted in **Jan. 2001** in **Taba**, but due to the given constraints (Intifada, Israeli elections) they failed to reach an agreement, as did the **June 2001** Israeli-Palestinian Ceasefire and Security Plan proposed by CIA Dir. George **Tenet**.
- In **Feb. 2002**, Saudi Crown Prince Abdullah announced his proposal of “normal relations” with Israel for a full withdrawal of Israeli troops from the OPT, recognition of a Palestinian state and the refugees’ right to return. The **Saudi initiative** was adopted by the Arab League in Beirut in **March 2002** and has been reiterated since then.
- In **Dec. 2002**, the so-called Quartet of mediators - the US, the UN, the EU and Russia - presented a new draft peace plan (‘Performance-based and Goal-driven **Road Map**’), which - formally launched in **April 2003** - aimed at a “final and comprehensive settlement of the Israel-Palestinian conflict by 2005,” based on a full two-state solution, starting with an end to Palestinian terrorism and a freeze on Israeli settlements and other steps to normalize conditions, but lacked a timetable.
- In late **2003**, the so-called **Geneva Accord**, an unofficial extra-governmental peace proposal, offering a **draft permanent status agreement** to solve the conflict, made headlines.
- In **2004**, then Israeli PM **Sharon** introduced **Israel’s unilateral disengagement plan** ending effectively the era of talks and attempts to negotiate a solution. The Israeli Cabinet passed a revised version of the plan on 6 June 2004 and it was enacted in Aug./Sept. **2005** through the removal of all settlement/military installations in the Gaza Strip and of four settlements in the northern West Bank.
- With Hamas forming the PA unity government in **March 2006** - following the second PLC elections two months earlier - Israel suspended all remaining contacts with the PA. Meetings between Pres. Abbas and PM Olmert resumed after the Palestinian national unity government was dissolved following the near civil war and Hamas takeover of Gaza in June 2007, but with no results.
- The US-mediated **Annapolis conference** on 27 November **2007** was meant to re-launch the permanent status talks but only produced a “joint understanding” regarding further negotiations, the (unrealistic) goal of a peace treaty by the end of 2008, and a commitment to implement Road Map obligations, including a settlement freeze.
- The Arab summit in Damascus in **March 2008** renewed the 2002 **Arab Peace Initiative**. On 27 Dec. 2008, Israel launched a massive military assault against the Gaza Strip (‘**Operation Cast Lead**’), which left some 1,400 Palestinians dead and drew harsh international condemnation. In protest, the PA halted all negotiations. Taking office in **January 2009**, new US President Obama made the peace process one of his top priorities. Netanyahu, returned to power in Israeli elections in **March**, stressed his conditions, including a demilitarized Palestinian state and recognition of Israel as the homeland of the Jewish people, while the PA insisted on a complete settlement freeze. In November, Netanyahu announced a partial 10-month freeze and Abbas - under US pressure - agreed to **resume negotiations**.

- On 3 March **2010**, the Arab League's Follow-Up Committee on the Arab Peace Initiative endorsed four months of "**proximity talks**" with Israel, a formula that allowed Pres. Abbas to resume negotiations without his demands on settlements being met. The talks began on 9 May and on 29 July, representatives of the Committee agreed to support **direct talks** between Palestinians and Israelis. These resumed in September; after regional meetings between the parties (incl. the US, Egypt and Jordan), they all met in Sharm El-Sheikh to discuss the next steps, but the end of Israel's settlement moratorium on 26 September brought an end to all activity.
- In **March 2011**, representatives of the Middle East Quartet, during their latest round of meetings in Tel Aviv and Ramallah, pessimistically declared that they held little hope for the resumption of peace talks since the differences between the two sides were far too wide. As the Arab Spring swept through the region and the Iran issue came to dominate Israeli news, the possibility of holding productive negotiations with Israel appeared more remote than ever and President Abbas focused on reconciliation with Hamas and winning UN recognition of full Palestinian statehood.
- In early January **2012**, Israeli and Palestinian negotiators met for the first time in more than a year in Amman, in an effort to revive peace talks, but with no progress and towards the end of the month Pres. Abbas said the discussions had ended. In May 2012, Israeli Defense Minister Barak suggested bypassing a stagnant peace process with "an interim agreement, maybe even unilateral action" in which Israel should impose the borders of a future Palestinian state. Despite Israeli and US opposition, the Palestinians distributed a draft resolution to all 193 member states at the UN in New York on 8 November seeking 'non-member state' status within the UN General Assembly. While Israel warned that it would consider partial or full cancellation of the Oslo Accords if the resolution was adopted, Palestinians reiterated their commitment to resume peace talks immediately after the vote.
- On 31 July **2013** renewed peace talks were launched in Washington D.C. with an initial time frame of 6-9 months to discuss all the final status issues. The first meeting was held on 13 August and talks continued throughout the following months but with no progress.



- Despite persistent efforts by the US especially since early **2014** the parties failed to achieve a guiding framework for continued negotiations, *inter alia* due to ongoing settlement announcements and Israel's failure to release the fourth tranche of prisoners. A broad outline for a Palestinian-Israeli agreement was envisioned by 29 April 2014, but negotiations collapsed when Israel suspended them after Hamas and the PLO signed their unity accord on 23 April 2014, stating that it would not negotiate with any Palestinian government "backed by" Hamas, although the accord was widely welcomed by the international community. The State of Palestine has since moved to accede to 15 international treaties and conventions, all of which have already come into effect.
- Currently, the only negotiations on the agenda are those on a permanent ceasefire following the Gaza War of summer 2014, for which a provisional ceasefire was brokered by Egypt and went into effect on 26 August.

■ **Positions on Outstanding Negotiation Issues**

	Palestinians	Israel
JERUSALEM	<ul style="list-style-type: none"> East Jerusalem is subject to UNSC Resolution 242 and forms part of the occupied territory which will become the Palestinian state. In principle, sovereignty must be divided along the 1967 lines (with potential modifications through mutually agreed exchanges). Thus, Al-Haram Al-Sharif compound must also fall under full Palestinian legal sovereignty. Jerusalem in its entirety (and not merely East Jerusalem) is the subject of permanent status negotiations. Palestinians will exercise sovereignty over part of the city, which will serve as the capital of their state. Jerusalem should be an open city with no physical partition that would prevent free movement. Freedom of worship and access to religious sites must be guaranteed to all faiths and their dignity protected. 	<ul style="list-style-type: none"> Jerusalem is and must remain the capital of the State of Israel, undivided, under exclusive Israeli sovereignty (as stipulated under its 1980 Basic Law). There is no basis in international law for the position supporting a status of corpus separatum for the city of Jerusalem, which was no more than a non-binding proposal and became irrelevant with the Arab states' rejection of UN Resolution 181.
BORDERS	<ul style="list-style-type: none"> The borders must be the June 4, 1967 lines, incl. Jerusalem, which is part of the whole border and cannot be delayed. The Palestinian state must be sovereign, viable, and geographically contiguous. Full control over the borders (free movement and access to international markets) and a territorial link between the West Bank and Gaza Strip. Willing to discuss minor, reciprocal, and mutually agreed changes to the 1967 boundary (1:1 land swap) and how to manage resources that are shared with neighboring countries. Land swaps should not cover more than 1-4% of the Palestinian territory. No Man's Land is integral part of the OPT (although there have been a few suggestions to consider dividing it evenly). A permanent territorial link (Gaza-West Bank corridor) under Palestinian sovereignty is necessary for a viable state. An equitable delimitation of the maritime area (Mediterranean and Dead Sea), with all maritime neighbors (Israel, Egypt, Cyprus, and Jordan). 	<ul style="list-style-type: none"> The achievements of the 1948 War are established undisputable facts. Talks thus relate to the territory occupied in 1967 (22%). East Jerusalem is part of Israel's municipal boundary and should be postponed, as should the 'Holy Basin' area. The border line must secure a solid Jewish majority within Israel and guarantee Israel's security, which the current Green Line cannot fulfill. Control of the borders, airspace, and territorial waters of a future Palestinian state is Israel's absolute right. A land swap compromise would encompass up to 10% of the occupied land, must not necessarily be 1:1. A Palestinian state must be demilitarized and Israel is entitled to 'hot pursuit' into Palestinian territory. No Man's Land is not occupied by anyone - thus not open to discussion (but could consider even division). Agree to principle of territorial link/safe passage but claim control over it. Maritime issues are governed by international law.
SETTLEMENTS	<ul style="list-style-type: none"> All the settlements built after 1967 are illegal and pose the greatest threat to a viable two-state solution. An immediate, genuine and comprehensive settlement freeze and dismantling of outposts are necessary (in accordance with international law and the Road Map). Evacuation of (most) settlements is a must to allow for the complete exercise of sovereignty and for sufficient land and access to resources to make a state viable and contiguous. No wholesale annexation of so-called settlement blocs. Ready to consider that a substantial number of Jewish settlers remain under Israeli sovereignty. 	<ul style="list-style-type: none"> Settlement activity is legitimate. West Bank lands and settlement blocs need to be retained (annexed) as a buffer in case of future aggression. Isolated settlements could be relocated into the settlement blocs or within Israel. Wants to keep 80% of the West Bank settlers (Etzion, Adumim, Modi'in, Shomron/Ariel blocs).
REFUGEE	<ul style="list-style-type: none"> Israel must acknowledge responsibility for the creation and perpetuation of the refugee problem. Israel must recognize that Palestinian refugees and 	<ul style="list-style-type: none"> In any final accord the Palestinians must recognize Israel as the state of the Jewish people, thus the right of return to

	<p>their descendants have the right to return to their homes in principle.</p> <ul style="list-style-type: none"> • The issue must be resolved in a just manner, in accordance with UN General Assembly Resolution 194 (1948). (Palestinian refugees must be given the option to exercise their right of return, though they may favor resettlement in a Palestinian state or in third countries, or normalization of their legal status in the host country). • Refugees shall be granted restitution and compensation for the material and non-material damages they have suffered (including loss of properties, livelihood, and opportunities and human suffering due to protracted displacement). • States that have hosted Palestinian refugees shall be entitled to remuneration. • The international community must be represented in the mechanism to guarantee the efficiency and durability of the implementation process. 	<p>Palestinian refugees is implicitly denied.</p> <ul style="list-style-type: none"> • Resolution 194 is non-binding and does not mention a "right" anywhere. Argues that the "live at peace" condition has not been met and it referred only to 1948 refugees, not to their descendants. • Refuses to recognize its responsibility with respect to the refugee issue. • Returning Palestinian refugees must be absorbed in a future Palestinian state as their return to Israel proper would threaten the state's Jewish identity (and Israel has also managed to absorb millions of Jewish immigrants over the years). • Other refugees should be rehabilitated by international aid and resettled in neighboring countries. • Agrees to an international implementation mechanism.
WATER	<ul style="list-style-type: none"> • Acceptance of the fundamental principle of international water law stipulating that both Israel and Palestine are entitled to an equitable and reasonable allocation of shared freshwater resources. • Water rights and the fair allocation of water according to international law must be attained and is critical for future political stability in the entire region. • The Jordan River is one of the water sources to be shared and, together with the adjacent Jordan Valley, is essential for a viable state. • Compensation by Israel for the past and ongoing illegal use of Palestinian water resources under international law. 	<ul style="list-style-type: none"> • Wants the problem, i.e., the shortage of water, as a starting point. • Insists on full control of the sources of Palestinian water. • Any additional water for Palestinians must not come out of the Israeli share of water extracted from the West Bank since 1967, but through brackish and wastewater treatment, as well as developing new, non-conventional water sources. • Initially refused to discuss the Jordan River altogether due to 'security' reasons; now accepts to discuss the lower Jordan River.
SECURITY	<ul style="list-style-type: none"> • It is impossible to discuss security before establishing the borders of the Palestinian state. • A Palestinian state must be able to defend itself from external threats and cannot be demilitarized (but may agree to arms limitations in return for full Israeli withdrawal and third party presence). • No Israeli presence or control over borders and border crossings whatsoever. • International presence to protect borders, monitor crossings, resolve disputes, etc. • Airspace could be controlled jointly. • Security cooperation that preserves the integrity and sovereignty of each state (incl. sharing of security related information, respecting international human rights, and developing relations with all bordering states in order to promote peace, security, and stability in the region). International guarantees and involvement will thereby play a central role. • No military alliances against the other side, nor allowing one's territory to be used as a base of operation against each other or against other neighbors. • No foreign troops may be stationed in either state's territory unless agreed to by the two parties. 	<ul style="list-style-type: none"> • Israel's security takes precedence above all else and requires defensible borders. • Palestinian state must be demilitarized. <ul style="list-style-type: none"> • Israeli military presence, especially along borders and in Jordan Valley, and early warning stations. • Complete Israeli control of the airspace above the West Bank and Gaza. • In principle, rejects any international presence. <ul style="list-style-type: none"> • Regional arrangements are needed to prevent deployment of foreign troops in Jordan, Palestine, and Israel, other than those agreed upon by the parties.

■ **Palestinian Unity (Talks)**

Since the Hamas takeover of the Gaza Strip in 2007, a series of reconciliation agreements have attempted to rebuild a unified Palestinian political system, but so far unsuccessfully. On 4 May 2011, after four years of bloody infighting and numerous rounds of talks mediated mainly by Egypt, Fateh and Hamas formalized an end to Palestinian disunity by signing, along with other main factions, a reconciliation agreement in Cairo (for the full text see: <http://www.palestinemonitor.org/spip/spip.php?article1787>). The pact was rich in principles and full of ambiguous details, but initial enthusiasm was lowered by doubts about its durability. The deal provided, *inter alia*, for the creation of a joint caretaker government and preparation of elections within a year. While both sides agreed in November 2011 to hold elections in May 2012, the anticipated interim government of technocrats was never formed and other controversial issues, such as reforming the security forces, are still to be solved. During a meeting in Doha in February 2012, President Abbas and Hamas politburo chief Khaled Mashaal agreed to form an interim government of independent technocrats to be headed by President Abbas (as Prime Minister) and responsible for overseeing elections and Gaza's restoration. However, implementation of agreed steps stalled after some Hamas leaders rejected the agreements. In late May/early June, Fateh and Hamas held talks to form a unity government but after Hamas prevented the Central Elections Commission from updating the voter registry in the Gaza Strip in July, talks reached "a deadlock" and in October, Hamas boycotted the local elections. While the November 2012 Israeli military operation in Gaza, the growth of Israeli extremism, and the successful UN bid seemed to increase the prospects for unification, with both factions announcing reciprocal amnesty of political prisoners and the rapid resumption of unity talks as well as allowing each other to hold rallies in Gaza and the West Bank respectively, events in Egypt dealt a sharp blow to Palestinian political rapprochement, with Hamas and Fatah adopting starkly opposite stands *vis-à-vis* the military coup in Egypt and Hamas accusing Fateh of cooperating and coordinating with the new Egyptian authorities and Fateh blaming Hamas for interfering in internal Egyptian affairs.



However, talks continued and on 23 April 2014, the PLO and Hamas signed a unification accord to end intra-Palestinian division. It stipulated the formation of a interim government of national consensus within five weeks and the holding of presidential, legislative and PNC elections at least six months thereafter. On 2 June 2014, President Abbas swore in the new government headed by Prime Minister Rami Hamdallah.

13.5 Police & Security

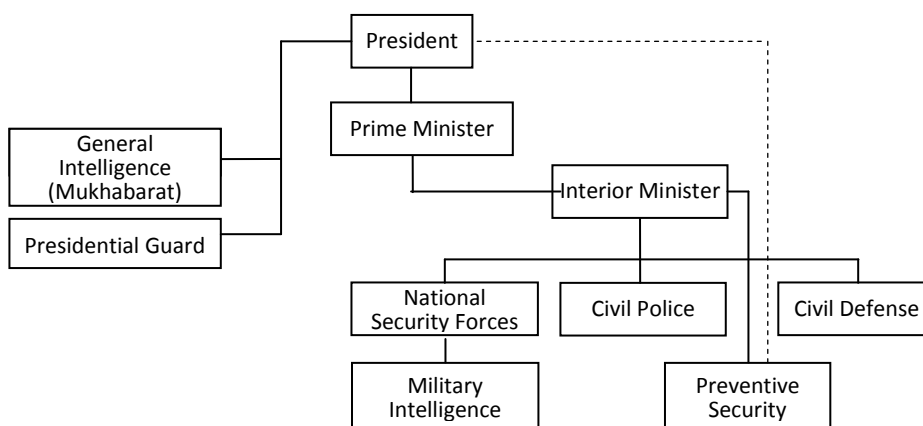
- The structure of the PA security apparatus was stipulated in the **Cairo Agreement** (4 May 1994), where it is defined as a "strong police" that would exist for five years, by which time a final status would supposedly have been negotiated. The **number** of this police force was set at 9,000, of which 7,000 were recruited from the Palestine Liberation Army (Diaspora) and 2,000 from the WBGs. All personnel required Israeli authorization and the PA police force was to be equipped with a maximum of 7,000 personal firearms, 120 medium and heavy machine guns, and 45 armored vehicles.
- The **Oslo II Agreement** (28 Sept. 1995) added the task of preventing and combating violence and incitement of violence against Israel (Art. XII and XIV) and consequently changed the structure of the PA security apparatus, to be composed of several branches (e.g., Civil Police, Public Security, Preventive Security, Presidential Security, Intelligence - Annex I, Art. II and IV). The maximum number of policemen increased to 30,000. After Oslo II, eight official PNA security services were created: the Civil Police, the Preventive Security, the Civil Defense, the National Security, the Presidential Security, the Military Intelligence, the Naval Police and the General Intelligence. Furthermore, four new security services were formed or put under formal control of an official agency while acting independently: the Special Security, the Military Police, the Border Police and the Special Forces.
- **Security Sector Reform** has been part of PA agenda, in conjunction with its engagements in the Road Map. In 2003, the late President Arafat established by a presidential decree the **Palestinian**



National Security Council responsible for overseeing all the PA's security mechanisms. Through other decrees, Pres. Mahmoud Abbas reconstructed (28 October 2005) and re-formed (8 April 2007) the Council before dissolving it in June 2007 in the wake of the Hamas takeover of Gaza.

- In January 2006, the EU also established a body assisting Palestinian forces: The **EU Police Mission in the Palestinian Territories (EUPOL COPPS)**, which operates under the European Security and Defense Policy (ESDP).
- According to **Palestinian law** the 'Security Establishment' comprises the following:
 - The *Ministry of Interior* (in charge of Internal Security).
 - The *security services* as follows: General Intelligence, Civil Defense, Preventive Security Organization, Palestinian Civil Police, Military Intelligence, National Security Forces, Presidential Guards and Customs Control.
 - *Supporting commissions & directorates*: General Military Training Commission, Logistics Commission, Military Financial Administration, Military Liaison Directorate, Customs Control, Organization and Administration Commission, Military Judiciary Commission, National & Political Guidance Commission and the Military Medical Services Directorate. (PA Ministry of the Interior, *Palestinian Security Sector Strategic Plan 2014-2016*, April 2014).

Command Structure of the Palestinian Security Forces



- There are 64 **police stations** in the West Bank with a total of 7,675 civil police **personnel** (2,269 of whom in the Ramallah headquarters). Only 3.3% (256) of these are **women**. The **ratio** is 319 police personnel per 100,000 inhabitants (excluding Palestinians from East Jerusalem and 331 personnel in detention facilities). Almost half of the police personnel do not hold a secondary **school certificate**, 63.7% have over 10 years of experience and 36% are under the **age** of 30 (PCBS, *A Review of Palestinian Justice and Security Sector Data*, August 2013).

Police by Function/Area of Specialization

Function/Area of Specialization	Number	Function/Area of Specialization	Number
Traffic	535	Family Protection	23
General Investigation	330	Drug Control	166
Security	944	Special Police	1,208
Management	925	Operations	172
Public Relations	47	Armament	45
Finance	46	Tourism & Antiquities	94
Administration	190	Detention/Prison Facilities	331
Explosives	41	Governorate Police	2,399
Police Security	143	Political mandate	11
DCO	25	Total	7,675

Source: PCBS, *A Review of Palestinian Justice and Security Sector Data*, August 2013.



- The **military justice system** has 100 personnel (2 of them women). It investigated 1,271 complaints made by civilians against the security forces, mostly against national security (435 cases) and police (388 cases) (*ibid.*).
- Total **expenditure for security and public order** in the first 8 months of 2014 amounted to **NIS 2,792,377,000**. The vast majority of this amount – NIS 2,025,036,000 – was spent on salaries and wages for the Interior & National Security Ministry personnel (Ministry of Finance.)
- The US State Department's 2013 *country report on terrorism* (released in April 2014 - see: <http://www.state.gov/j/ct/rls/crt/2013/224823.htm> for the full report, chapter on Middle East and North Africa for PA) acknowledged that the **capacity** and **performance** of the PA's **security** had further improved. Figures from the previous year estimated the number of PA security forces at 29,000 and that of Hamas forces in Gaza at around 15,000.

13.6 State of Palestine

On 29 November 2012, the UN General Assembly in New York voted overwhelmingly with 138 in favor, nine against and 41 abstentions to "...accord to Palestine non-member observer State status in the United Nations ..." (Resolution 67/19).

- **Countries voting FOR the resolution:** Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Chile, China, Comoros, Costa Rica, Cuba, Cyprus, Denmark, Djibouti, Dominica, East Timor, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Finland, France, Gabon, Gambia, Georgia, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Guyana, Honduras, Iceland, India, Indonesia, Iran, Iraq, Ireland, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kirghistan, Kuwait, Laos, Lebanon, Lesotho, Libya, Liechtenstein, Luxembourg, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Morocco, Mozambique, Myanmar, Namibia, Nepal, New Zealand, Nicaragua, Niger, Nigeria, North Korea, Norway, Oman, Pakistan, Peru, Philippines, Portugal, Qatar, Qatar, Russia, Russia, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Solomon Islands, Somalia, South Africa, South Sudan, Spain, Sri Lanka, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sudan, Suriname, Swaziland, Sweden, Sweden, Switzerland, Switzerland, Syria, Tajikistan, Tanzania, Thailand, Costa Rica, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, UAE, Uganda, Uruguay, Uzbekistan, Venezuela, Vietnam, Yemen, Yemen, Zambia, and Zimbabwe.
- **AGAINST:** Canada, Czech Republic, Israel, Marshall Islands, Micronesia, Nauru, Palau, Panama & USA.
- **ABSTAINING:** Albania, Andorra, Australia, Bahamas, Barbados, Bosnia/Herzegovina, Bulgaria, Cameroon, Colombia, Croatia, Dem. Rep. of Congo, Estonia, Fiji, Germany, Guatemala, Haiti, Hungary, Latvia, Lithuania, Malawi, Monaco, Mongolia, Montenegro, Netherlands, Papua New Guinea, Paraguay, Poland, Korea, Moldova, Romania, Rwanda, Samoa, San Marino, Singapore, Slovakia, Slovenia, Macedonia, Togo, Tonga, United Kingdom, and Vanuatu.
- **NO VOTE (absent):** Equatorial Guinea, Kiribati, Liberia, Madagascar, Ukraine.



On 12 December 2012, Palestine informed the UN Secretary-General that the designation “State of Palestine” should be used in all official documents, although this does not preclude the use of the term “occupied Palestinian territory”. This has been the case since the Secretary-General’s report on the “Status of Palestine in the United Nations”(A/67/738) of 8 March 2013.

Palestine is a **full member** in regional and international bodies, including the Arab League, the Non-Aligned Movement (NAM), the Organization of Islamic Cooperation (OIC), the Group of 77, and UNESCO.

In April 2014, the State of Palestine took steps to access 13 international conventions and treaties and applied for the four Geneva conventions as well as the 1907 The Hague conventions. Altogether these included the following:

- the International Covenant on Civil and Political Rights;
- the International Covenant on Economic, Social and Cultural Rights;
- the Convention on the Elimination of All Forms of Discrimination against Women;
- the Convention on the Rights of Persons with Disabilities;
- the International Convention on the Elimination of All Forms of Racial Discrimination;
- the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- the Convention on the Rights of the Child; the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.
- the International Convention on the Suppression and Punishment of the Crime of Apartheid;
- the four Geneva Convention of 12 August 1949 and the first additional protocol; the Vienna Convention on Diplomatic Relations;
- the Vienna Convention on Consular Relations;
- the Hague Convention (IV) respecting the Laws and Customs of War on Land and its Annex;
- the Vienna Convention on the Law of Treaties;
- the UN Convention against Corruption;
- the Convention on the Prevention and Punishment of the Crime of Genocide.

All of the conventions and treaties have now come into effect. Accession to these treaties brings new obligations, for example on the guarantee to respect and protect human rights, and legislation will have to be revised to be in line with these new standards. The UN stands ready to assist Palestinians, at their request, in strengthening the institutions for the implementation and monitoring of treaty obligations.

Source: UNSCO, *Report to the Ad Hoc Liaison Committee*, 22 Sept. 2014.

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